



**City Council Study Session and
Special Focus Area
May 8, 2017 - 5:30 PM
Auburn City Hall
AGENDA**

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- I. CALL TO ORDER
 - A. Roll Call
- II. ANNOUNCEMENTS REPORTS AND PRESENTATIONS
- III. AGENDA ITEMS FOR COUNCIL DISCUSSION
 - A. Audobon Society - Solar (20 Minute Presentation)
 - B. [Potential Code Changes for Improved Development Process \(30 Minute Presentation\) \(Snyder\)](#)
 - C. [Safer Cities/Inclusive Cities Ad Hoc Presentation \(20 Minute Presentation\)](#)
- IV. HEALTH AND HUMAN SERVICES DISCUSSION ITEMS
 - A. [Auburn Day Shelter/Overnight Shelter Project Status Update\(15 Minute Presentation \) \(Hinman\)](#)
 - B. [Ordinance No. 6652 - Regulation of Fair Housing Practices \(15 Minute Presentation\) \(Heid/Hinman\)](#)
- V. OTHER DISCUSSION ITEMS
- VI. NEW BUSINESS
- VII. MATRIX
 - A. [Matrix](#)
- VIII. ADJOURNMENT

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AGENDA BILL APPROVAL FORM

Agenda Subject:

Potential Code Changes for Improved Development Process (30 Minute Presentation) (Snyder)

Date:

May 2, 2017

Department:

Community Development and Public Works

Attachments:

[Exhibit I - Recommended Potential Code Changes Matrix for 2017 Action](#)
[Exhibit II - Referenced Current City Code Regulations - Recommended Potential Code Changes Matrix](#)

Budget Impact:

\$0

Administrative Recommendation:**Background Summary:**

Mayor Backus recently asked Community Development and Public Works Director Snyder to work with his team to identify currently adopted regulations that are frequent concerns for developers and/or their representatives and that regularly challenge the efficiency and flexibility of the staff's work effort in conducting development review. The attached matrix highlights key sections of the Auburn City Code previously adopted by the City Council and their impacts on development review activities. During May 8th Council study session, Community Development and Public Work Department staff will discuss these code sections with the City Council. Staff is interested in Council feedback on whether it wishes to have staff initiate code update efforts for some or all of these codes sections or retain some or all of them.

Reviewed by Council Committees:**Councilmember:****Staff:**

Snyder

Meeting Date: May 8, 2017

Item Number:

Exhibit I: Recommended Potential Code Changes Matrix for 2017 Action

Code	Description	Impact
ACC 18.02.065	This section of code defines the method for calculating residential density. It requires that allowable density be based on “net site area” vs. gross site area. Net site area is determined by removing right of ways, critical areas, and storm tracts. By removing all of these areas the developer experiences a reduction in the number of lots that are allowed. The list of areas that must be removed can be revisited to see if the standard is resulting in too much reduction.	A number of residential developers have expressed concern over the number of lots that are lost as a result of our methodology for calculating density. It has led to several mid-size lots (e.g. 5 acres) being deemed unviable for subdivision. Modifying the current method for residential density calculation will make more properties viable.
ACC 18.25	This chapter of city code establishes “infill” development standards. The infill standards apply to smaller parcels that are located in the midst of already developed areas. Due to their size they are more difficult to develop and meet city standards. The infill section allows flexibility in certain sections of code in order to make these properties more viable. An area of flexibility that is not included is public right of way improvements. Often times the public right of way improvements make development of the site cost prohibitive.	By granting relief from some or all of the public right of way improvements, 2 and 3 lots short plats become more viable and likely to occur. Infill is important for achieving Growth Management Act (GMA) objectives.
ACC 18.52.050.B.2	Current code establishes a 40-foot setback for drive aisle throat depth. This can be reduced but because this section is located in the zoning code the process to reduce is a variance through the Hearing Examiner. It is more appropriately a decision of the City Engineer through a deviation process. This could be accomplished by either eliminating this section and moving it to the Engineering Design standards or modifying it to reference the Engineering Design standards.	This standard routinely comes up as a problem for commercial developers – especially on smaller sites. The variance process is time consuming and expensive and puts the decision in the hands of the Hearing Examiner (who is not an Engineer). Additionally, the standard really pertains more to engineering layouts than land use. This means that the City Engineer has better technical qualifications to consider deviation from this standard.
ACC 18.68.030.B.1.b	Current code requires all Comprehensive Plan map changes to go before Planning Commission and City Council. It also requires all rezones to go before Hearing Examiner and City Council. When a Comprehensive Plan map change is allowed, eliminate requirement that the rezone go before the Hearing Examiner so that City Council can take action on both items at the same time.	Current process is very linear and creates a burdensome process. There is no reason that City Council should have to take action twice. By eliminating this type of rezone from going through the Hearing Examiner process it will save the \$2,000 cost of the rezone and eliminate 6 months of process while achieving the same outcome.
ACC 12.64A.020.A-B	This section of code defines when new development or re-development will be required to construct half street improvements. Triggers for re-development include the value of the improvements compared to the property value based on the current County Assessor records, additional parking, or additional new driveway access points.	Concern is often expressed in a re-development project about the requirement to build half streets and the additional cost of the improvement. For new development concern is often expressed by small developments (1 single-family house, etc.) about the additional cost for completing half street improvements. This also impacts in-fill development which triggers these requirements as they are currently written.
ACC 13.32A	This section of code defines when new development or re-development will be required to underground the overhead wiring	Concerns are similar to the concerns for half street improvements.

| that may span their property frontage. |

Exhibit II: Referenced Current City Code Regulations – Recommended Potential Code Changes Matrix

18.02.065 Methods of calculating density.

The permitted number of dwelling units or lots shall be determined as follows:

A. Net Site Area. The area of a site used to calculate the allowed number of dwelling units or lots shall exclude those areas designated for public rights-of-way, except for the designation of additional right-of-way along arterials, private streets, vehicle access easements, and on-site public or homeowners' association-maintained recreation space if required.

Further, the net site area shall be subject to the following adjustments and limitations for critical areas:

1. Net site areas shall exclude streams, wetlands, fish and wildlife habitat areas, and high landslide hazards; and
2. Net site area shall include any required critical area buffer, seismic hazards, and flood hazard areas when calculating base density, unless critical areas identified in subsection (A)(1) of this section are present; provided, that net site area shall not include required critical area buffers when calculating minimum density. The allowed number of dwelling units or lots for a site shall be computed by multiplying the net site area of the lot as calculated in this section by the applicable residential base density number found in the development standards for each zone.

B. "Base density" refers to the maximum number of dwelling units or lots allowed for a specific zone without application of the bonus density provisions of Chapter 18.25 or 18.49 ACC, expressed as units per net acre. Base densities for residential zones are specified in ACC 18.07.030.

C. "Base units" refers to the number of allowable dwelling units for a site, as determined by multiplying the base density of the zone in which the site is located by the net site area.

For example, the R-5 zone has a base density of five units per acre; therefore, the maximum number of base units allowed on a lot with 0.6 acres of net site area in the R-5 zone is three units.

Chapter 18.25

INFILL RESIDENTIAL DEVELOPMENT STANDARDS

Sections:

- 18.25.010 Purpose and intent.
- 18.25.020 Applicability.
- 18.25.030 Procedures.
- 18.25.040 Infill residential standards.

18.25.010 Purpose and intent.

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The purpose of this chapter is to encourage the development of underutilized parcels in zones which, through Auburn comprehensive plan goals and policies, have been identified as areas where infill residential development should be encouraged. This chapter identifies conditions under which infill development is supported and relaxes certain development requirements in those instances in an effort to promote the construction of infill development in appropriate areas of the city. (Ord. 6245 § 14, 2009.)

18.25.020 Applicability.

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A. Eligibility Criteria. This chapter may be applied to development or redevelopment that meets all of the following criteria:

1. The lot is within one of the following zones: R-5, R-7, R-10, R-16, or R-20.
2. Adjacent properties abutting at least 50 percent of the nonstreet perimeter of the subject property (i.e., side and/or rear lot lines) are developed with single-family dwellings or higher intensity uses.
3. For lots located in the R-5 or R-7 zones, the development or redevelopment creates a maximum of one new lot or dwelling unit.
4. For properties located in the R-10, R-16, or R-20 zones, the lot or parcel size shall be one acre or less. (Ord. 6245 § 14, 2009.)

18.25.030 Procedures.

.....
Development proposals desiring to utilize the infill standards of this chapter shall be subject to one or more of the permit types found in ACC Title 14 and shall be processed in a manner consistent with the underlying land use application pursuant to ACC Title 14. (Ord. 6245 § 14, 2009.)

18.25.040 Infill residential standards.

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A. All other provisions of this title that would apply to a non-infill project shall apply to infill development except as specifically modified by this chapter.

B. Infill Land Division Standards – Reduction in Dimensional Requirements for Infill Residential Development. Notwithstanding the dimensional development standard requirements found in the underlying residential zones of ACC 18.07.030, property that is eligible for infill residential development pursuant to ACC 18.25.020 shall be eligible for subdivision of land as follows:

1. Minimum Lot Area. Minimum lot area and minimum average lot area may be permitted at 80 percent of the minimum areas required in Chapter 18.07 ACC for the underlying zone.
2. Minimum Lot Width. Minimum lot width may be reduced by 20 percent of or 10 feet less than the required minimum lot width of the underlying zone, whichever is less.
3. Maximum Lot Coverage. Maximum lot coverage can be increased by 10 percent over that allowed in the underlying zone.

C. Infill Development Standards. Property that is eligible for infill residential development pursuant to ACC 18.25.020 shall be eligible for these additional development standards to encourage infill, subject to demonstration to the satisfaction of the city engineer that all required utility infrastructure, access requirements, and street elements can be accommodated in accordance with the city design and construction standards:

1. The maximum density provided for in Chapter 18.07 ACC may be increased by up to 10 percent. This density bonus may not be combined with density bonuses provided for under Chapter 18.49 ACC.
2. Increased allowable building height by no more than five feet to allow for roof features noted in subsection (D)(4) of this section while achieving permitted maximum density.
3. Reduced front or street side setbacks to conform to the average existing building lines or setbacks of adjoining structures. In no case shall reduced street setbacks be allowed for a garage or carport.
4. Alternative setbacks, including reduced rear setbacks. Standard setbacks of the zone shall be applied for any required setback when the subject setback abuts an RC, R-1, R-5, or R-7 zone.

5. A 10 percent reduction in minimum on-site parking requirements, when on-site parking is designed to be shared parking. This reduction may be combined with any other reduction provided for in ACC 18.52.030.

D. Infill Design Standards. Property that is eligible for infill residential development pursuant to ACC 18.25.020 shall adhere to the following design requirements. While creativity and variation in architectural design is encouraged, the purpose of these requirements is to ensure compatibility of infill development with the character of nearby existing residential structures. Residential infill development shall meet the following design criteria, as defined by the predominant character of the existing residential block face. The block face shall consist of all residential properties along both sides of the public or private right-of-way on which the development fronts. The block face shall be measured from intersection to intersection, to the road end, or 200 feet in either direction from the development site, whichever is nearest.

1. Building orientation on infill lots shall match the predominant orientation of other buildings along the block face.
2. Access and location of off-street parking on infill lots shall be similar to the predominant character for existing development along the block face. Primary vehicular access shall be through rear alleys where such rights-of-way exist, and on-site parking shall be located to the rear of proposed structures, insofar as this is consistent with the predominant character of the block face.
3. Proposed residences shall be required to provide an additional five-foot setback over that required in the underlying zone above the second story where property line(s) abut a property with an existing single-story structure.
4. Roofs on proposed infill residential structures shall be similar in slope, material, and style to existing development and shall incorporate any or all of the following features, insofar as such features are compatible with existing development on the block face:
 - a. Dormers;
 - b. Gabled or hipped roofs;
 - c. Pitched roofs;
 - d. Parapets or cornices.

Unless it is the predominant existing style on the block face, flat, unadorned roofs shall not be allowed.

5. Horizontal facades longer than 25 feet shall be treated to reduce building mass and visual bulk using at least one of the following techniques. The applicant shall

demonstrate that the selected techniques are either currently present on the block face or are not substantially incompatible with existing development.

- a. Bays or recesses (minimum depth of 18 inches);
- b. Window patterns;
- c. Contrasting materials or colors;
- d. Upper story setbacks;
- e. Balconies. (Ord. 6245 § 14, 2009.)

D. Bonus density, where applicable, shall be computed by adding the bonus units authorized by Chapter 18.25 or 18.49 ACC to the base units computed under this section.

E. When calculations result in a fraction, the fraction shall be rounded to the nearest whole number as follows:

1. Fractions of 0.50 or above shall be rounded up; and
2. Fractions below 0.50 shall be rounded down. (Ord. 6245 § 2, 2009.)

18.52.050 Parking design, development and maintenance standards.

B. Access to Parking. Access to parking shall be provided as follows for all parking areas other than for individual single-family dwellings and duplexes.

2. A commercial or industrial use shall have access driveways from the public or private street that are not intersected by a parking aisle, parking space, or another access driveway for a minimum distance of 40 feet from the street right-of-way, to provide a queuing area for vehicles entering and exiting the parking area. The city engineer may require a greater distance for uses with high vehicle trip generation or located along heavily traveled, city designated arterial streets.

18.68.030 Public hearing process.

B. Zoning Map Amendments.

1. Rezones Initiated by an Applicant Other Than City. All applications for a rezone shall be reviewed by the planning director prior to the scheduling of a public hearing. After review of the application, the director shall determine which of the following two processes should occur to properly hear the rezone:

b. If the rezone is in conflict with the comprehensive plan, or there are no policies that relate to the rezone, or the policies are not complete, then a comprehensive plan amendment must be approved by the city council prior to the rezone being scheduled for a public hearing in front of the hearing examiner. The planning commission shall conduct a public hearing on the comprehensive plan amendment and make a recommendation to the city council.

12.64A.020 Applicability of chapter.

It shall be a condition of any building, grading and/or special permit meeting one or more of the following criteria that the applicant shall construct or otherwise provide public right-of-way improvements as set forth in ACC 12.64A.030.

A. Four residential dwelling units or less, and the estimated value of the proposed structural improvements exceed 50 percent of the King or Pierce County assessor's value of the existing structure(s) on the subject property; or

B. Commercial development, industrial development, or residential development with more than four dwelling units, and the estimated value of the proposed structural improvements exceeds 25 percent of the King or Pierce County assessor's value of the existing structure(s) on the subject property.

Chapter 13.32A UNDERGROUND WIRING

Sections:

- 13.32A.010 Scope.
- 13.32A.020 Exceptions.
- 13.32A.030 Definitions.
- 13.32A.040 Temporary aerial services.
- 13.32A.050 Requirements – New utility distribution facilities.
- 13.32A.060 Requirements – Existing utility aerial distribution facilities.
- 13.32A.070 Requirements – New utility service connections.
- 13.32A.080 Permitting.
- 13.32A.090 Joint trenches.
- 13.32A.110 Financial responsibilities – Private development.
- 13.32A.120 Deferral of underground distribution facilities.
- 13.32A.130 City project process and requirements.
- 13.32A.140 Local improvement regulations apply.
- 13.32A.150 Authority.
- 13.32A.160 Violation – Penalty.

13.32A.010 Scope.

A. It is found and determined by the city that the general necessity, convenience, health, safety and welfare require that electrical and telecommunication utility facilities be constructed underground in an orderly manner in accordance with the requirements specified in this chapter.

B. The scope of this chapter is to provide policies and standard procedures for regulation of installation, operation, and management of all aerial and underground utility wiring and conduits within the city of Auburn.

C. This chapter shall apply to all electrical and telecommunication utility facilities, including but not limited to power, telephone and cable television facilities, within the corporate city limits; provided, however, the facilities identified in ACC 13.32A.020 are excepted from the undergrounding requirements of this chapter.

D. This chapter clarifies the applicability of all other titles, and all other chapters of this title, of the Auburn City Code regarding the subject of undergrounding, to foster management of city rights-of-way to the benefit of the public, and to prescribe the specific procedures and permits to be used to regulate each activity.

E. All improvements subject to this chapter shall also meet the requirements of the engineering design and construction standards of the city.

F. In addition to the provisions of this chapter, Chapter 13.36 ACC, CATV Systems, also governs the installation and management of all underground facilities related to cable television services and franchises within the corporate boundaries of the city.

G. In addition to the provisions of this chapter, ACC Title 20, Telecommunications and Other Commercial Utilities, also governs the installation and management of all underground facilities related to commercial utilities and telecommunication services and Chapter 12.24 ACC, Construction Permits, also governs right-of-way agreements, franchises, and leases within the corporate boundaries of the city.

H. In the event of a conflict between the provisions of this chapter and other portions of the Auburn City Code, the provisions of this chapter shall control. (Ord. 6238 § 2, 2009.)

13.32A.020 Exceptions.

With the approval of the city engineer, the following facilities are exempt from the undergrounding requirements of this chapter:

A. Electric utility substations, pad mounted transformers and switching facilities not located on the public right-of-way and authorized through existing or future site-specific development approvals;

B. Electric aerial transmission facilities of a voltage of more than 15,000 volts, including poles, wires, and associated facilities;

C. Street lighting and traffic control equipment as determined necessary by the city engineer;

D. Telecommunication pedestals and other equivalent telecommunication facilities;

E. Temporary aerial utility services for construction that will be removed immediately upon completion of construction; and

F. A franchisee is expanding its existing aerial system as a secondary tenant on an existing aerial system not related to a new private development project where the undergrounding of the expansion will not eliminate the existing aerial system. (Ord. 6520 § 1, 2014; Ord. 6238 § 2, 2009.)

13.32A.030 Definitions.

The definitions of this chapter are specific to this chapter.

A. "Aerial" means those utility facilities which currently exist on poles, or which may be installed on poles within city rights-of-way or city utility easements at a future date with the city engineer's approval.

B. "Applicant" means the owner or owners of record of the property pursuing the development or redevelopment of property within the jurisdiction of the city.

C. "Conduit" means any pipeline, duct, or protective enclosure used for electrical conductors, coaxial cable, multiconductor cable, or fiber optic cable, telecommunications trunkline or used for conveyance of gas, petroleum, or other commercial products.

D. "Conversion" means a project being performed by the city to convert an area of existing aerial utility facilities to underground facilities.

E. "Conversion area" means the area that has been identified by the city in relation to a city project that will be requiring the aerial utility systems to be undergrounded, including all affected utility customers.

F. "Electric utility" means any utility engaged in the business of furnishing electric energy to the public and includes electric companies as defined by RCW 80.04.010 and public utility districts.

G. "Permanent structure" means any commercial, industrial or residential structure that is greater than 120 square feet and is on a fixed foundation including but not limited to uses such as offices, businesses, warehouses, homes, garages, barns, and storage buildings.

H. "Power distribution facilities" means those electrical utility facilities of less than 15,000 volts that provide direct service to customers and are not considered transmission systems.

I. "Service connection" means utility facilities extending from a distribution system and terminating on private property to serve a customer or subscriber.

J. "Telecommunications" is the transmission of information by wire, optical cable, or other similar means, including but not limited to telephone, cable television, and data transmission services. As used in this definition, "information" means knowledge or intelligence represented by any form of writing, signs, signals, pictures, sounds, or any other symbols.

K. "Telecommunication utility" means any utility engaged in the business of affording telecommunications services to the public in all or part of the conversion area.

L. "Temporary structure" means a structure that is 120 square feet or less in size, mobile in nature and will be removed from the site within the time frame allowed for temporary aerial services.

M. "Utilities" means those companies providing electric power or telecommunications services within the corporate boundaries of the city of Auburn, Washington.

N. "Utility facility" means any and all utility-owned or operated conduits, wires, cables, fiber optics, or other devices used to transmit, transport, or distribute electric power or telecommunications services, and any appurtenances thereto. (Ord. 6238 § 2, 2009.)

13.32A.040 Temporary aerial services.

The city engineer may allow utility service connections for permanent structures to be temporarily located aerially for up to 180 calendar days. Extensions beyond the 180 calendar days for temporary aerial service connections for permanent structures may be authorized by the public works committee of the city council; such authorizations may include financial securities or other instruments to ensure the conversion of the aerial system to an underground system by the end of the extension period authorized. (Ord. 6238 § 2, 2009.)

13.32A.050 Requirements – New utility distribution facilities.

All new utility distribution facilities shall be underground. The installation of all new utility facilities for subdivisions shall also meet the requirements identified in Chapter 17.14 ACC. (Ord. 6238 § 2, 2009.)

13.32A.060 Requirements – Existing utility aerial distribution facilities.

A. All existing utility aerial distribution facilities shall be undergrounded in connection with new private development unless one of the following criteria is met:

1. The city engineer determines that undergrounding of the portion of the existing aerial facilities along the development's street frontage would require undergrounding portions of the aerial distribution facilities extending beyond the development's street frontage unless an additional extension of no more than 50 feet of the underground system is needed on either end of the street frontage to connect to logical points of the existing utility system; or
2. The development is the conversion of one single-family residence to a commercial use as defined in the residential office zoning district, Chapter 18.22 ACC; or
3. The development is a new commercial development on a lot that is 11,000 square feet or smaller in area and located in the RO, CN, C1, or C3 zone; or
4. The development is wholly interior improvements to an existing building; or

5. The development is an addition, alteration or repair of an existing building structure, where the building permit valuation per ACC 15.07.080 is less than 50 percent of either:

- a. The assessed value of the existing building structure(s) on the subject property as determined by the most current property assessment by the county assessor of the county in which the property is located; or
- b. The value of the existing building structure(s) as determined by an appraisal performed by an MAI appraiser certified by the state of Washington, which appraisal shall be paid for and provided by the property owner.

B. Repairs to an existing utility aerial service facility may be made aerially.

C. For city projects, the city council shall determine whether the undergrounding of existing aerial utility distribution facilities shall be required in association with the city project. (Ord. 6238 § 2, 2009.)

13.32A.070 Requirements – New utility service connections.

All new utility service connections shall be underground unless one of the following criteria is met:

A. The existing distribution system and any service connections serving the customer or subscriber are aerial and the building, structure, or facility to be served is new construction, an addition, alteration, or repair where the building permit valuation per ACC 15.07.080 is under \$20,000 in value.

B. The installation of a new or replacement service connection in an area where the existing utility distribution facility and/or existing service connection is aerial and meeting at least one of the following criteria:

- 1. The construction of a single-family residence on an existing platted lot; or
- 2. The conversion of one single-family residence to a commercial use as defined in the residential office zoning district, Chapter 18.22 ACC; or
- 3. A new commercial development on a lot that is 11,000 square feet or smaller in area and located in the RO, CN, C1, or C3 zone; or
- 4. Wholly interior improvements made to an existing building; or
- 5. For existing building structures, where the building permit valuation per ACC 15.07.080 of an addition, alteration, or repair to the existing structure is less than 50 percent of either:

- a. The assessed value of the existing building structure(s) on the subject property as determined by the most current property assessment by the county assessor of the county in which the property is located; or
- b. The value of the existing building structure(s) as determined by an appraisal performed by an MAI appraiser certified by the state of Washington, which appraisal shall be paid for and provided by the property owner. (Ord. 6238 § 2, 2009.)

13.32A.080 Permitting.

All permits for the installation of aerial and underground utility facilities within existing city rights-of-way or easements shall be processed and reviewed under Chapter 12.24 ACC, Construction Permits. (Ord. 6238 § 2, 2009.)

13.32A.090 Joint trenches.

Where several underground utilities are planned or required in the same alignment, the utilities shall use a joint trench for such facilities unless demonstrated to the satisfaction of the city engineer that a joint trench is not feasible. (Ord. 6238 § 2, 2009.)

13.32A.110 Financial responsibilities – Private development.

For private development, the cost of constructing new underground utility facilities, or relocating existing aerial facilities underground, shall be borne by the serving utilities, the owners of the real property to be served or others requesting such underground services in accordance with the applicable filed tariffs or the rules and regulations or the published policies of the respective utilities furnishing such service or as may be contractually agreed upon between the utility and such owner or applicant.

In addition, all such conversion of electric and telecommunication utility facilities to underground facilities may be undertaken by local improvement district or as otherwise permitted by law and as further authorized by RCW 35.96.030 and 35.96.040. (Ord. 6238 § 2, 2009.)

13.32A.120 Deferral of underground distribution facilities.

A. The city engineer may grant a deferral for some or all of the undergrounding of utility distribution facilities otherwise required pursuant to this chapter following the procedures identified in ACC 12.64A.050, Deferral and fee in lieu of improvements. The city engineer's decision regarding such a deferral will be based on meeting the following criteria rather than those listed in ACC 12.64A.050:

1. There is a pending city six-year TIP project or an adjacent developer planned project which would affect the proposed area of undergrounding of the existing aerial facilities; or
2. A franchisee is expanding its existing aerial system as a secondary tenant on an existing aerial system for the purpose of serving a new private development where the undergrounding of the expansion will not eliminate the existing aerial system; or
3. All of the following conditions are met:
 - a. There are other properties abutting or across the street from the subject property that have aerial utility facilities; and
 - b. The establishment or continuation of aerial utility facilities for the period of the deferral will not adversely affect or delay other properties that may have to provide or convert to undergrounding utility improvements within the public right-of-way; and
 - c. There are technological difficulties associated with converting to or providing undergrounding utility improvements for the subject property as demonstrated to the satisfaction of the city engineer.

B. An applicant whose request has been denied may appeal the denial following the procedure as identified in ACC 12.64A.060, Appeal and enforcement. (Ord. 6520 § 2, 2014; Ord. 6238 § 2, 2009.)

13.32A.130 City project process and requirements.

A. City Responsibilities.

1. When service from underground electric and telecommunication utility facilities becomes available in all or part of a conversion area, the city engineer shall issue a directive to the owners of all structures or improvements with service connections to the existing or temporary overhead utility facilities in the area by means of mailing a certified notice stating that:
 - a. Service from the underground utility facilities is available;
 - b. To facilitate completion of the city's project, all electric and telecommunication service connections from the existing aerial utility facilities within the area to any structure or improvement must be decommissioned, disconnected and removed within 90 calendar days after the date of mailing;

c. Should such owner fail to complete conversion of such service connections from the aerial system to the underground system within 90 calendar days after the date of mailing, the city will order the electric and telecommunication utilities to disconnect and remove the service connections;

d. The owner may object to the disconnection and removal of the service lines as provided in subsection D of this section.

2. Time in consummating such connection and disconnection of aerial services is of the essence and such notice to the property owner or occupant of the affected premises may be mailed.

B. Property Owner's Responsibilities.

1. Such conversion of the service connection, including installation of any underground service connections, shall be completed within 90 calendar days of the city's mailing set forth in subsection A of this section and RCW 35.96.050 that service from the underground utility facilities is available.

2. Property owners wishing to discontinue utility service shall provide written notice of that intent to the city engineer within 30 calendar days of receipt of the city engineer's notice that the underground system is available for service.

3. If the owner of any structure or improvement with a service connection to an existing aerial electric and/or telecommunication utility facility within a conversion area fails to convert the service connection from aerial to underground service within 90 calendar days after the date of the mailing of the notice set forth in subsection A of this section, the city engineer shall order the electric and/or telecommunication utilities to disconnect and remove all such service connection; provided, that if the owner has filed written objections to such disconnection and removal with the city clerk within 30 calendar days after the mailing, then the city shall not order such disconnection and removal until after the appeal hearing on such objections.

C. Financial Responsibilities.

1. For city projects, the cost of relocating existing utility aerial distribution facilities shall be borne by the serving utility and the city in accordance with the filed tariffs or franchise agreement. In absence of a filed tariff or franchise agreement, the cost of the relocation of existing aerial distribution facilities shall be borne by the serving utility.

2. For city projects, the undergrounding of the service connections for real property served by the aerial electric or telecommunication utility facilities that are being relocated underground shall be at the owner(s)'s expense, including:

a. Decommission, disconnect, and remove the service connections from those utility facilities to any structures or improvements located on the property.

b. Either install underground service connections to those structures/improvements on the property or, upon approval of the city engineer, discontinue utility service to one or more of the structures/improvements on the property.

3. All such conversion of utility facilities to underground facilities may be undertaken by local improvement district or as otherwise permitted by law and as further authorized by RCW 35.96.030 and 35.96.040.

D. Appeal Procedures.

1. A property owner may object to the disconnection and removal of an aerial service connection by filing a written objection thereto with the city clerk within 30 calendar days after the date of the mailing of the notice set forth in subsection A of this section. Failure to object within such time will constitute a waiver of the owner's right thereafter to object to such disconnection and removal.

2. Upon the timely filing by the owner of an objection, the owner shall have the right to file an appeal of the city engineer's directive, which shall be heard by the city of Auburn hearing examiner.

3. All appeals filed pursuant to this section must be filed in writing with the public works director within 10 working days of the filing date of the owner's written objection and shall specify the error of law or fact, or new evidence which could not have been reasonably available at the time of the city engineer's decision, which shall constitute the basis of the complaint.

4. Upon receipt of a timely written appeal, the public works director shall review the materials submitted and prepare a written staff report detailing the rationale of the city engineer's directive and findings of fact for the hearing examiner.

5. The public works director shall schedule the hearing in accordance with Chapter 2.46 ACC and notify the contesting party of the scheduled hearing. (Ord. 6442 § 8, 2012; Ord. 6238 § 2, 2009.)

13.32A.140 Local improvement regulations apply.

Unless otherwise provided for in RCW 35.96.010 et seq., all the general provisions related to local improvements of cities and towns shall likewise apply to local improvements for the conversion of aerial electric and telecommunication facilities to underground facilities within the city limits. (Ord. 6238 § 2, 2009.)

13.32A.150 Authority.

The city engineer or designee shall be responsible for the application of this chapter related to public rights-of-way.

The building official or designee shall be responsible for the application of this chapter related to real property. (Ord. 6238 § 2, 2009.)

13.32A.160 Violation – Penalty.

Any violation of this chapter shall be enforced pursuant to the provisions of Chapter 1.25 ACC. (Ord. 6238 § 2, 2009.)



AGENDA BILL APPROVAL FORM

Agenda Subject:

Safer Cities/Inclusive Cities Ad Hoc Presentation (20 Minute Presentation)

Date:

May 2, 2017

Department:

Administration

Attachments:

[Res 5284](#)
[Ord 6651](#)

Budget Impact:

\$0

Administrative Recommendation:**Background Summary:****Reviewed by Council Committees:****Councilmember:****Staff:**

Meeting Date: May 8, 2017

Item Number:

RESOLUTION NO. 5 2 8 4

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
AUBURN, WASHINGTON, AFFIRMING OF THE VALUE OF
ALL AUBURN RESIDENTS

WHEREAS, the City of Auburn is committed to inclusiveness and diversity as fundamental aspects of our community; and

WHEREAS, the City is authorized by Section 35A.11.030 of the Revised Code of Washington (RCW) to define the functions, powers, and duties of its officers and employees and to adopt and enforce ordinances appropriate to the good government of the City; and

WHEREAS, under state law, the functions, powers, and duties of City officers and employees does not include responsibility for enforcement of federal immigration law; and

WHEREAS, the good government of the City includes recognizing that all people are vital to our shared prosperity and that all people must be respected and valued; and

WHEREAS, local elected officials can and should lead the way forward in making inclusiveness and diversity priorities; and

WHEREAS, the Fourteenth Amendment to the U.S. Constitution guarantees the equal protection of the laws to all persons, not just citizens and residents, stating that “[n]o state shall . . . deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.” [U.S. Const. amend. XIV, § 1]; and

WHEREAS, the courts of this state as well as the United States have repeatedly stated that “the equal protection clause applies to resident aliens as well as citizens.”

Herriott v. City of Seattle, 81 Wn.2d 48, 500 P.2d 101 (1972), citing *Takahashi v. Fish & Game Comm'n*, 334 U.S. 410, 420, 68 S.Ct. 1138, 92 L.Ed. 1478 (1948); and the City Council finds that is in the best interest of the City to be an inclusive and diverse community for all people.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN, KING COUNTY, WASHINGTON, HEREBY RESOLVES as follows:

Section 1. That the City Council of the City of Auburn reaffirms its commitment to making inclusiveness and diversity fundamental aspects of our community, pledges active efforts to seek to achieve that goal, and urges all residents of the City of Auburn to join together to support this effort.

Section 2. That is the policy of the City Council that City personnel shall not initiate any inquiry or enforcement action based solely on a person's:

1. Civil immigration status;
2. Race;
3. Religion;
4. Inability to speak English; or
5. Inability to understand city personnel or its officers.

Section 3. That the Mayor is authorized to implement such administrative procedures as may be necessary to carry out the directives of this legislation, including development and implementation of personnel policies consistent herewith.

Section 4. That this Resolution shall take effect and be in full force upon passage and signatures hereon.

Dated and Signed this _____ day of _____, 2017.

CITY OF AUBURN

NANCY BACKUS, MAYOR

ATTEST:

Danielle E. Daskam, City Clerk

APPROVED AS TO FORM:

Daniel B. Heid, City Attorney

ORDINANCE NO. 6 6 5 1

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, ADDING A NEW SECTION 1.02.030 OF THE AUBURN CITY CODE RELATING TO THE POWERS AND DUTIES OF CITY OFFICERS AND EMPLOYEES, INCLUDING THE AFFIRMATION OF THE VALUE OF ALL AUBURN RESIDENTS

WHEREAS, the City of Auburn (the “City”) wishes to foster trust and cooperation between City personnel, law enforcement officials, and all members of the diverse community that makes up the City of Auburn; and

WHEREAS, the City is authorized by Section 35A.11.030 of the Revised Code of Washington (RCW) to define the functions, powers, and duties of its officers and employees and to adopt and enforce ordinances appropriate to the good government of the city; and

WHEREAS, state law does not include among the functions, powers, and duties of City officers and employees responsibility for enforcement of federal immigration law; and

WHEREAS, the enforcement of civil immigration laws has historically been a federal government responsibility through the Immigration and Naturalization Service. Since 2002, matters of immigration law have been handled by the Office of Immigration and Customs Enforcement, a branch of the Department of Homeland Security. Requiring local law enforcement agencies, which are not specifically equipped or trained, to enforce civil immigration laws would force local governments to expend their limited resources to perform traditional federal functions; and

WHEREAS, local law enforcement agencies do interact and cooperate with the Department of Homeland Security in that their interactions related to immigration enforcement in fact arise through their routine local law enforcement duties; and

WHEREAS, the City Council wished to identify as a goal the fostering of trust and cooperation between City personnel and law enforcement officials and the diverse and pluralistic society that makes up the City of Auburn, to improve crime prevention and public safety; and

WHEREAS, the City Council also wishes to set as a goal the promotion of the public health and welfare of all city of Auburn residents and other users of City services, including but not limited to police and human services; and

WHEREAS, the City Council further intends that the provisions of this ordinance be consistent with federal laws regarding communications between local jurisdictions and federal immigration authorities, including but not limited to United States Code Title 8, Section 1373; and

WHEREAS, the good government of the City includes recognizing that all people are vital to our shared prosperity and that all people must be respected and valued; and

WHEREAS, it is in the best interest of the City and of the residents of the City to be a diverse and inclusive city.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, DO ORDAIN as follows:

Section 1. Recitals Adopted. That the City Council hereby adopts the recitals contained in this Ordinance as Findings of Facts and Conclusions, as appropriate given the context of each recital and incorporates said recitals herein by this reference.

Section 2. New Section of City Code. A new Section 1.02.030 of the City Code is created to read as follows:

1.02.030 Restriction on immigration, race, religion and language inquiries.

Consistent with the city's intention of being a diverse and inclusive city, except as provided in this section or when otherwise required by a law, a city office, department, employee, agency or agent shall not condition the provision of city services on the citizenship or immigration status of any individual.

A. Nothing in the Auburn city code shall be construed to restrict or prohibit any city officer or employee from participating in cross-designation or task force activities with federal law enforcement authorities.

B. City personnel shall not request specific documents relating to a person's civil immigration status for the sole purpose of determining whether the individual has violated federal civil immigration laws. The documents include but are not limited to; passports, alien registration cards; or work permits.

C. City personnel may use documents relating to a person's civil immigration status if the documents are offered by the person upon a general, nonspecific request.

D. City personnel shall not initiate any inquiry or enforcement action based solely on a person's:

1. Civil immigration status;
2. Race;
3. Religion;
4. Inability to speak English; or
5. Inability to understand city personnel or its officers.

E. Except when otherwise required by law, where the city accepts presentation of a state-issued driver's license or identification card as adequate evidence of identity, presentation of a photo identity document issued by the person's nation of origin, such as a driver's license, passport or consulate-issued document, shall be accepted and shall not subject the person to a higher level of scrutiny or different treatment than if the person had provided a Washington state driver's license or identification card. However, a request for translation of such a document to English shall not be deemed a violation of any provision of City code. This provision does not apply to documentation required to complete a federal I-9 employment eligibility verification form.

F. This section does not create or form the basis for liability on the part of the city, its officers, employees, or agents.

G. Unless otherwise permitted by city code, or required by state or federal law, or international treaty, all applications, questionnaires and interview forms used in relation to the provision of city benefits, opportunities or services shall be promptly reviewed by each agency, and any question requiring disclosure of information related to citizenship or immigration status shall be, in the agency's best judgment, either deleted in its entirety or revised such that the disclosure is no longer required.

Section 3. Implementation. The Mayor is hereby authorized to implement such administrative procedures as may be necessary to carry out the directions of this legislation, including administrative procedures to address complaints where an employee may have taken action inconsistent with Section 1.02.030 of the City Code.

Section 4. Severability. The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this ordinance, or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.

Section 5. Effective date. This Ordinance shall take effect and be in force five days after its passage, approval and publication as provided by law.

INTRODUCED: _____

PASSED: _____

APPROVED: _____

CITY OF AUBURN

NANCY BACKUS, MAYOR

ATTEST:

Danielle E. Daskam, City Clerk

APPROVED AS TO FORM:

Daniel B. Heid, City Attorney

Published: _____



AGENDA BILL APPROVAL FORM

Agenda Subject:

Auburn Day Shelter/Overnight Shelter Project Status
Update(15 Minute Presentation) (Hinman)

Date:

May 3, 2017

Department:

Administration

Attachments:

No Attachments Available

Budget Impact:

\$0

Administrative Recommendation:**Background Summary:**

The City of Auburn in partnership with Valley Cities and The Auburn Food Bank will be operating a day shelter and overnight shelter at the Valley Cities location at 2536 I St. NE. The shelter's operating hours will be Monday – Friday with the intention of growing to seven days a week as the operational model is being finalized.

The need for expanded sheltering in Auburn was the primary consensus item brought forward to the Mayor, City Council and staff at the conclusion of the Mayor's Task Force on Homelessness in April 2016. This task force was comprised of community leaders, service providers, citizens, faith community, police and fire, school district, Muckleshoot Indian Tribe, business owners and key city staff. The Task Force sought to better understand the scope and causes of homelessness in Auburn, the systems in place to address homelessness, and considered the range of concerns and ideas identified by the community.

We will be working closely with our regional partners on finding stable, permanent housing for those in our community. The three partners involved with this project are experts in the field of delivering services and solutions to the unsheltered in our community.

What makes this effort especially viable are the partnerships and willingness of our current service providers to coordinate their efforts in a seamless and collegial effort. For example, Valley Cities generously donated the temporary use of a vacant lot on their property to provide for the day shelter structure that the City of Auburn is leasing and is also providing the use of their Common Building to be utilized for providing nighttime services; Puget Sound Energy has expedited work to provide temporary power to the site, Valley Cities will be reallocating current outreach worker staff to support the shelter clients and the Auburn Food Bank will be providing staff, food and

resource connections for the day sheltering operation. While many communities may struggle having multiple agencies work on a combined project, Auburn has always been unique in how our agencies willingly partner for the greater good without strife.

It is estimated that the shelter will be able to open within the next month. The portable building has been leased and we are awaiting delivery after PSE installs the power, the providers have worked out an initial operational model for the day and night services and our staff has begun the permitting process. This shelter will remain open for the next 12-18 months while we work with our agencies, private funders and regional partners on creating more housing and affordable housing options in Auburn.

Reviewed by Council Committees:

Councilmember:

Staff: Hinman

Meeting Date: May 8, 2017

Item Number:



AGENDA BILL APPROVAL FORM

Agenda Subject:

Ordinance No. 6652 - Regulation of Fair Housing Practices
(15 Minute Presentation) (Heid/Hinman)

Date:

May 3, 2017

Department:

Administration

Attachments:

[Ord 6652 Option 1](#)

[Ord 6652 Option 2](#)

[SOID Questions](#)

Budget Impact:

\$0

Administrative Recommendation:**Background Summary:**

A number of communities in King County, including, for instance, Bellevue, Kirkland, Renton and Kent have ordinances that prohibit rental housing discrimination based upon source of funds. The purpose of these regulations is to assist low income housing by a prohibiting or restricting practices that do not accommodate or allow rental relationships were the based upon source of funds section 8 voucher programs. There are a variety different facets to the various ordinances of the city's, but, for instance, looking at Kent's ordinance, it provides a restriction on practices that preclude source of income discrimination in rental housing with limited exceptions. Draft ordinance number 6652, similar to Kent's ordinance, would apply to all rental housing, except (one) where the rental housing unit is in a residential building shared by (occupied by) the owner, or where the owner of the rental housing owns fewer than four housing units within the city. As with Kent's ordinance, the proposed ordinance number 6652 would not prohibit rental choices that are based on other factors other than source of income. However, if a person/landlord does improperly denied housing rental based upon source of income, that is prohibited as an unfair housing practice under this ordinance. The ordinance provides for penalties consistent with chapter 1.25 of the city code. Appeals of the penalties or determinations of unfair housing violations would be to the director of administration (first tier) and then to the hearing examiner (second tier). Currently the fee for appeals generally are a little over \$1,000.00 per appeal (to the Hearing Examiner). We do not have a fee specially, at this point, for the first tier. It may be appropriate to consider what that fee should be and whether the second tier appeal fee should be different then the current \$1,030.00.

Since the Council Study Session on April 17, 2017 staff has additional review of the topic. Staff have included are two different versions of ordinance number 6652 (they

are alternatives, and only one need be adopted). The difference between the two versions [identified in the header on each page] is that one version creates a separate new chapter - chapter 5.40 to the city code providing for fair housing practices, and more specifically, adding regulations that prohibit source of income discrimination for rental housing related to multi-family residential properties. The other ordinance essentially seeks to do the same thing, but seeks to do so by adding a new section to the existing chapter 5.22 of the city code, the city's rental business license. As such, business licenses are enforced through code enforcement, whereas the separate chapter (chapter 5.40) has a penalty and an appeal process that would fall within the purview of the City Administration Department.

In developing these options, staff looked at what other cities do, noting that there is a fair amount of variation in what cities do in these regards. In evaluating the different approaches cities have taken, staff felt that rather than creating expanded civil liabilities (some cities do that), it would be sufficient for the city to either provide for a penalty for violations of source of income discrimination (i.e., refusing to rent to a section 8 housing voucher tenant), or enforce it through business licensing, where there is already an existing framework for licensing criteria and enforcement. Either way, both ordinances limit their application multi-family residential rental units (so that the ordinances would not apply to single family residential structures, duplexes, etc.).

If the city Council were to opt for the chapter 5.40 alternative, it may also be appropriate to identify a hearing examiner appeal fee amount, rather than applying the current (land use) hearing examiner appeal costs to appeals under this new ordinance.

In terms of recommendation, I believe the business licensing approach should be simpler because the multi-family residential property owners should already be licensed, and rather than seeking to impose a penalty, the city could, were violations to occur, seek revocation or suspension of business licenses. Because the licensing enforcement process already exists, it would probably also be a more expedient (quicker) enforcement route.

Reviewed by Council Committees:

Councilmember:

Staff:

Heid/Hinman

Meeting Date: May 8, 2017

Item Number:

ORDINANCE NO. 6 6 5 2

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF AUBURN, WASHINGTON, CREATING A NEW
CHAPTER 5.40 OF THE AUBURN CITY CODE, RELATED
TO THE REGULATION OF FAIR HOUSING PRACTICES

WHEREAS, the City of Auburn recognizes that discrimination in housing adversely and seriously affects the health, safety, and welfare of the community.

WHEREAS, there are several government programs that assist very low income families, the elderly, veterans, and people with disabilities with financial subsidies that allow them to afford decent, safe, and sanitary housing in the private market.

WHEREAS, a significant number of people have difficulty securing adequate rental housing without financial assistance, and it is essential to assure that housing is available to those people.

WHEREAS, housing rental rates are rapidly rising in the Puget Sound region, and the number of affordable units is decreasing as rents increase, which, in turn, disfavors low-income tenants and those receiving government assistance.

WHEREAS, when families lose their homes because of income source based discrimination, they often lack funds to move, risk being unable to find replacement housing close to their workplace, risk becoming homeless, and risk disruption to their children's education and social development by being forced to move away from their friends and schools.

WHEREAS, citywide and countywide planning policies seek to promote fairness in housing for residents of all abilities, ages, races, and incomes.

Ordinance No. 6652
May 3, 2017
Page 1 of 5

WHEREAS, participation by landlords in these housing assistance programs provides a reliable, steady source of rental income.

WHEREAS, some state financial assistance programs are only available to landlords in cities that have passed ordinances that prohibit denying tenancy based solely on the applicant's source of income.

WHEREAS, the Auburn City Council has determined that prohibiting landlords from denying tenants the opportunity to rent housing solely because the tenant proposes to use government financial assistance will promote the health, safety, and welfare of the community.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. New Chapter to City Code. A new Chapter 5.40 to the Auburn City Code, entitled "Unfair Housing Practices," is created to read as follows:

CHAPTER 5.40
UNFAIR HOUSING PRACTICES

Sections:

- | | |
|----------|---|
| 5.40.010 | Source of Income Discrimination Prohibited. |
| 5.40.020 | Definitions. |
| 5.40.030 | Applicability. |
| 5.40.040 | Penalties. |
| 5.40.050 | Appeals. |

5.40.010 Source of Income Discrimination Prohibited.

A. Property owners, property managers, landlords, and their agents, who rent or lease multiple dwelling units consisting of four or more dwelling units on the same property may not refuse to rent or lease a dwelling unit to any tenant or prospective tenant or otherwise discriminate or retaliate against that person solely on the basis that the person proposes to pay a portion of the rent from a "source of income" as defined in this chapter.

B. This chapter does not prohibit any person from making a choice among prospective tenants based on factors other than the source of income.

5.40.020 Definitions.

A. "Source of income" includes income derived from social security, supplemental security income, other retirement programs, and any federal, state, local subsidy programs, including housing assistance, public assistance, and general assistance programs.

B. "Multiple dwelling units" means four (4) or more dwelling units located on the same property within the corporate limits of Auburn, owned, operated or managed by the same property owners, landlords, and their agents, whether the units are in the same building(s) or are separate dwelling unit structures, offered or available for rent or lease as a part of a rental housing business.

C. "Rental housing business," as used in this chapter, means any person, company, association or entity that rents or leases, or makes available for rent or lease, one or more rental units for rent or lease as residential units.

D. "Same property," as used in this chapter means the same property tax parcel (same property tax parcel number) or two or more property tax parcels that are immediately adjacent to each other.

E. Other terms used in this chapter shall be defined as set forth in the Residential Landlord Tenant Act, chapter 59.18 RCW.

5.40.030 Applicability. Nothing in this chapter will apply if the dwelling unit does not qualify for participation in the tenant's "source of income" program. However, any property owner or manager that refuses to rent a dwelling unit to a person based upon the proposed use of funds from a "source of income" must notify that person in writing of the reasons why the dwelling unit is ineligible for participation in the particular "source of income" program. Refusal to allow a health and safety inspection of the property by a public housing authority or subsidy program inspector shall not be considered a legitimate basis for refusing to rent due to program ineligibility.

5.40.040 Penalties.

A. Civil violation.

1. The violation of any provision of this chapter is a civil violation as provided for in chapter 1.25 of the city code, for which a monetary penalty may be assessed and abatement may be required.

2. Any penalty due and unpaid and delinquent under this chapter will constitute a debt of the city. The city may, pursuant to chapter 19.16 RCW, use a collection agency to collect unpaid license fees, or it may seek collection by court proceedings, which remedies shall be in addition to all other remedies.

5.40.050 Appeals.

A. Any person ordered to pay a civil penalty pursuant to ACC 5.40.040 may appeal the penalty by filing with the city clerk a written appeal. Appeals shall be in writing and contain the following information:

1. Appellant's name, address, phone number, and email address;
2. Appellant's statement describing his or her standing to appeal;
3. Identification of the summary of decision which is the subject of the appeal;
4. Appellant's statement of grounds for appeal and the facts upon which the appeal is based;
5. The relief sought, including the specific nature and extent; and
6. A statement affirming that the appellant has read the appeal and believes the contents to be true, followed by the appellant's signature.

B. To be valid, the appeal must be received and date stamped by the city clerk's office no later than fourteen (14) calendar days after the penalty was issued. The city clerk will forward all timely appeals to the director of administration or designee.

C. The director, or designee, will review the appeal and either affirm or repeal the order imposing the civil penalty based upon written findings of fact and conclusions of law. The director, or designee, may reduce the amount of the civil penalty upon a finding that the violation did not occur in bad faith and any known victims of the violation have been fully compensated for damages suffered as a result of the violation. The director, or designee, may request additional information necessary to make the decision and/or choose to hold an informal hearing to solicit evidence.

D. If the penalty is not repealed, the person who has been ordered to pay the civil penalty may appeal the director's decision to the hearing examiner pursuant to the process set forth in section 1.25.065 of the city code. Appeals must be accompanied by an appeal fee as set in the Auburn Fee Schedule, or as set the city council. The city shall have the burden of proof to establish the violation by a preponderance of the evidence.

Section 3. Implementation. That the Mayor is hereby authorized to implement such administrative procedures as may be necessary to carry out the directives of this legislation.

Section 4. Severability. That the provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this ordinance, or the invalidity of the application

thereof to any person or circumstance shall not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.

Section 5. Effective date. This Ordinance shall be in full force and effect five (5) days after publication as required by law.

INTRODUCED: _____

PASSED: _____

APPROVED: _____

CITY OF AUBURN

NANCY BACKUS, MAYOR

ATTEST:

Danielle E. Daskam, City Clerk

APPROVED AS TO FORM:

Daniel B. Heid, City Attorney

Published: _____

ORDINANCE NO. 6 6 5 2

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, CREATING A NEW CHAPTER 5.40 OF THE AUBURN CITY CODE, RELATED THE REGULATION OF FAIR HOUSING PRACTICES

WHEREAS, the City of Auburn recognizes that discrimination in housing adversely and seriously affects the health, safety, and welfare of the community.

WHEREAS, there are several government programs that assist very low income families, the elderly, veterans, and people with disabilities with financial subsidies that allow them to afford decent, safe, and sanitary housing in the private market.

WHEREAS, a significant number of people have difficulty securing adequate rental housing without financial assistance, and it is essential to assure that housing is available to those people.

WHEREAS, housing rental rates are rapidly rising in the Puget Sound region, and the number of affordable units is decreasing as rents increase, which, in turn, disfavors low-income tenants and those receiving government assistance.

WHEREAS, when families lose their homes because of income source based discrimination, they often lack funds to move, risk being unable to find replacement housing close to their workplace, risk becoming homeless, and risk disruption to their children's education and social development by being forced to move away from their friends and schools.

WHEREAS, citywide and countywide planning policies seek to promote fairness in housing for residents of all abilities, ages, races, and incomes.

WHEREAS, participation by landlords in these housing assistance programs provides a reliable, steady source of rental income.

WHEREAS, some state financial assistance programs are only available to landlords in cities that have passed ordinances that prohibit denying tenancy based solely on the applicant's source of income.

WHEREAS, the Auburn City Council has determined that prohibiting landlords from denying tenants the opportunity to rent housing solely because the tenant proposes to use government financial assistance will promote the health, safety, and welfare of the community.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. New Chapter to City Code. A new Chapter 5.40 to the Auburn City Code, entitled “Unfair Housing Practices,” is created to read as follows:

CHAPTER 5.40
UNFAIR HOUSING PRACTICES

Sections:

- | | |
|----------|---|
| 5.40.010 | Source of Income Discrimination Prohibited. |
| 5.40.020 | Definitions. |
| 5.40.030 | Applicability. |
| 5.40.040 | Exceptions. |
| 5.40.050 | Penalties. |
| 5.40.060 | Appeals. |

5.40.010 Source of Income Discrimination Prohibited.

A. Property owners, property managers, landlords, and their agents, who rent or lease multiple dwelling units may not refuse to rent or lease a dwelling unit to any tenant or prospective tenant or otherwise discriminate or retaliate against that person solely on the basis that the person proposes to pay a portion of the rent from a “source of income” as defined in this chapter.

B. This chapter does not prohibit any person from making a choice among prospective tenants based on factors other than the source of income.

5.40.020 Definitions.

A. “Source of income” includes income derived from social security, supplemental security income, other retirement programs, and any federal, state, local, or nonprofit-administered benefit or subsidy programs, including housing assistance, public assistance, and general assistance programs. “Source of income” does not include income derived in an illegal manner;

B. "Multiple dwelling units" means four (4) or more dwelling units located within the corporate limits of Auburn, owned, operated or managed by the same property owners, landlords, and their agents, whether the units are in the same building(s) or are separate dwelling unit structures, offered or available for rent or lease as a part of a rental housing business.

C. "Rental housing business," as used in this chapter, means any person, company, association or entity that rents or leases, or makes available for rent or lease, one or more rental units for rent or lease as residential units.

D. Other terms used in this chapter shall be defined as set forth in the Residential Landlord Tenant Act, chapter 59.18 RCW.

5.40.030 Applicability. Nothing in this chapter will apply if the dwelling unit does not qualify for participation in the tenant's "source of income" program. However, any property owner or manager that refuses to rent a dwelling unit to a person based upon the proposed use of funds from a "source of income" must notify that person in writing of the reasons why the dwelling unit is ineligible for participation in the particular "source of income" program. Refusal to allow a health and safety inspection of the property by a public housing authority shall not be considered a legitimate basis for refusing to rent due to program ineligibility.

5.40.040 Exceptions.

This Chapter shall not apply to:

A. Renting, leasing, or subleasing of a portion of a single-family dwelling, where the owner or person entitled to possession maintains a permanent residence, home or abode in the same dwelling, or an accessory dwelling unit; and

B. Rental of residential dwelling units where less than four (4) such units are owned, operated or managed by the same property owners, landlords, or their agents.

5.40.050 Penalties.

A. Civil violation.

1. The violation of any provision of this chapter is a civil violation as provided for in chapter 1.25 of the city code, for which a monetary penalty may be assessed and abatement may be required.

2. Any penalty due and unpaid and delinquent under this chapter will constitute a debt of the city. The city may, pursuant to chapter 19.16 RCW, use a collection agency to collect unpaid license fees, or it may seek collection by court proceedings, which remedies shall be in addition to all other remedies.

5.40.060 Appeals.

A. Any person ordered to pay a civil penalty pursuant to ACC 5.40.050 may appeal the penalty by filing with the city clerk a written appeal. Appeals shall be in writing and contain the following information:

1. Appellant's name, address, phone number, and email address;
2. Appellant's statement describing his or her standing to appeal;
3. Identification of the summary of decision which is the subject of the appeal;

4. Appellant's statement of grounds for appeal and the facts upon which the appeal is based;

5. The relief sought, including the specific nature and extent; and

6. A statement affirming that the appellant has read the appeal and believes the contents to be true, followed by the appellant's signature.

B. To be valid, the appeal must be received and date stamped by the city clerk's office no later than fourteen (14) calendar days after the penalty was issued. The city clerk will forward all timely appeals to the director of administration or designee.

C. The director, or designee, will review the appeal and either affirm or repeal the order imposing the civil penalty based upon written findings of fact and conclusions of law. The director, or designee, may reduce the amount of the civil penalty upon a finding that the violation did not occur in bad faith and any known victims of the violation have been fully compensated for damages suffered as a result of the violation. The Director, or designee, may request additional information necessary to make the decision and/or choose to hold an informal hearing to solicit evidence.

D. If the penalty is not repealed, the person who has been ordered to pay the civil penalty may appeal the director's decision to the hearing examiner pursuant to the process set forth in section 1.25.065 of the city code. Appeals must be accompanied by an appeal fee as set in the Auburn Fee Schedule, or as set the city council. The city shall have the burden of proof to establish the violation by a preponderance of the evidence.

Section 3. Implementation. That the Mayor is hereby authorized to implement such administrative procedures as may be necessary to carry out the directives of this legislation.

Section 4. Severability. That the provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this ordinance, or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.

Section 5. Effective date. This Ordinance shall be in full force and effect five (5) days after publication.

INTRODUCED: _____

PASSED: _____

APPROVED: _____

CITY OF AUBURN

NANCY BACKUS, MAYOR

ATTEST:

Danielle E. Daskam, City Clerk

APPROVED AS TO FORM:

Daniel B. Heid, City Attorney

Published: _____

Discrimination Evaluation – Housing Subsidies

1. Do you allow tenants to utilize housing subsidies when declaring and documenting income?
☐ Yes ☐ No
2. Do your application materials and/or lease agreements preclude the use of housing subsidies when declaring and documenting income while screening prospective tenants?
☐ Yes ☐ No
3. Are you enrolled in HUD's Section 8 (or comparable) housing program?
☐ Yes ☐ No
4. If no, are you willing to enroll in HUD's Section 8 (or comparable) housing program?
☐ Yes ☐ No
5. Are existing tenants subject to periodic evaluation of their source of income?
☐ Yes ☐ No



AGENDA BILL APPROVAL FORM

Agenda Subject:

Matrix

Date:

May 1, 2017

Department:

Administration

Attachments:

[Matrix](#)

Budget Impact:

\$0

Administrative Recommendation:

Background Summary:

Reviewed by Council Committees:

Councilmember:

Staff:

Meeting Date: May 8, 2017

Item Number:

COUNCIL MATRIX

NO.	TOPIC	STAFF LEAD(S)	STUDY SESSION REVIEW DATE(S)	COUNCIL DISCUSSION SUMMARY	ACTION DATE
1	Safe City Ad Hoc Committee Report	Chair Trout-Manuel	4/24/2017	Update inclusive city resolution	
2	Deputy Mayor Selection Ad Hoc Committee Report	Chair DaCorsi	future meeting		
3	Capital Projects Update and Featured Capital Project Discussion	K. Snyder	04/10/2017		
4	Community Sustainability Series: Economic and Statutory Considerations for Municipalities	K. Snyder	Rescheduled for later this year		
5	IT Update on Digital Parity	P. Haugan	5/22/2017		
6	Business Shopping Carts	K. Snyder	4/24/2017		
7	Fair Housing Practices - Souce of Income Discrimination	Admin/Legal/CD&PW	5/8/2017		
8	First Quarter Financial Report	Finance	6/12/2017		
9					
10					